**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE ANTONY DOMINIC**

**MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929**

**WP(C).No. 35644 of 2007(R)**
**----------**

**PETITIONER:**
**----------**

**S.S.BINU, PROPRIETOR OF**
**M/S BINU & CO., PEZHUMTHURUTH,**
**PERUMON P.O., KOLLAM.**

**BY ADV. SRI.T.M.CHANDRAN**
**SRI.V.A.SASIDHARAN**
**SRI.JOSEPH ALBIN NEDUNTHALLY**

**RESPONDENTS:**
**----------**

**1. KERALA STATE ELECTRICITY BOARD,**
**REPRESENTED BY SECRETARY,**
**VAIDYUTHI BHAVAN, TRIVANDRUM.**

**2. CHIEF ENGINEER(CIVIL CONSTRUCTION)**
**SOUTH, K.S.E.B., VAIDYUTHI BHAVAN,**
**TRIVANDRUM.**

**3. DEPUTY CHIEF ENGINEER & PRINCIPAL**
**TEAM LEADER, K.S.E.B.,**
**CIVIL CIRCLE, PALLOM.**

**4. LEGAL ADVISOR AND DISCIPLINARY ENQUIRY**
**OFFICER, K.S.E.B., TRIVANDRUM.**

**BY SRI.P.P.THAJUDEEN, SC, KSEB**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**ANTONY DOMINIC, J.**
**==========**
**W.P.(C) NO. 35644 OF 2007 R**
**==========**

**Dated this the 3rd day of December, 2007**

**J U D G M E N T**

Ext.P7 is a notice issued to the petitioner calling upon him to show cause why he shall not be blacklisted.

2. The allegation is that while the general conditions of contract framed by the Board prescribes that only one tender could be submitted by a person in a single quotation, petitioner had submitted two tenders in the names of M/s.Binu and Company and M/s.Al Steel Industries. Ext.P7 also proceeds to allege that the petitioner had committed fraud in connivance with the then officers of the Board and as a result of the said conduct, Board had initiated Vigilance Enquiry and disciplinary proceedings against the then officers and it is pending. On this basis, it is stated that since the petitioner had secured many contracts by defrauding the Board, he had committed violation of the general conditions of the contract and therefore it is proposed to blacklist the petitioner.

3. Petitioner submits that officers mentioned in the show cause notice are being proceeded against and refers to Ext.P9, an

order issued by the Board referring the case of the Officers to the Legal Adviser and Disciplinary Enquiry Officer for a formal enquiry. On this basis, petitioner contends that unless and until the disciplinary proceedings are completed, proceeding for blacklisting the petitioner shall not be proceeded with.

4. On going through Ext.P7, it is noted that the allegation against the petitioner is that he had secured many contracts by defrauding the Board and thus committed violation of the general conditions of contract and on this basis, the Board intends to include his name in the blacklist of the contractors. From Ext.P7, it is also evident that the allegation against the officers against whom vigilance enquiry and disciplinary enquiry are being conducted is that the petitioner defrauded the Board in connivance with these officers and thus these officers have committed misconducts warranting disciplinary action.

5. In my view, there is no reason for holding up the enquiry pursuant to the show cause notice issued to the petitioner awaiting the disciplinary action initiated against the officers. These are separate enquiries and independent of the

enquiry that is held against the officers, if the Board is able to establish its case that the petitioner has violated the terms and conditions of the contract, the Board is free to proceed with Ext.P7. Further the nature and purpose of these proceedings are also different. The outcome of the disciplinary enquiry is not going to have any impact on the proceedings that are proposed against the petitioner. That apart, petitioner has also not established that by continuing the proceedings against him, any prejudice will be caused. In fact, if at all anybody is aggrieved, it is the officers against whom disciplinary action is pending, who can have the complaint. Therefore,I do not find any merit in the request now made in the writ petition.

Writ petition fails and is dismissed.

**ANTONY DOMINIC, JUDGE.**

Rp